

(PCT Article 36 and Rule 70)

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/008158

## Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-13 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* 1-10 \_\_\_\_\_ received by this Authority on 04.07.2005 by fax
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/4-4/4 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>2-6, 8-10</u>	YES
		Claims <u>1, 7</u>	NO
	Inventive step (IS)	Claims _____	YES
		Claims <u>1-10</u>	NO
	Industrial applicability (IA)	Claims <u>1-10</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
1.	This report refers to the following documents:		
	<p>D1: WO 01/31883 A (NOMADIX INC; ROBBINS BARRY R (US); SHORT JOEL E (US); GOLDSTEIN JOSH), 3 May 2001 (2001-05-03)</p> <p>D2: WO 00/14919 A (N C C EXPORT SYSTEMS 1995 LTD; ALTER MEIR (IL)), 16 March 2000 (2000-03-16)</p> <p>D3: EDELL, RICHARD; VARAIYA, PRAVIN: "Providing Internet Access: What we learn from INDEX" [Online] 1999, pages 1-17, XP002303522, found on the Internet: &lt;URL: <a href="http://paleale.eecs.berkeley.edu/~varaiya/papers_ps.dir/networkpaper.pdf">http://paleale.eecs.berkeley.edu/~varaiya/papers_ps.dir/networkpaper.pdf</a>&gt; [found on 2004-11-02]</p>		
2.	The Examining Authority has given careful consideration to the arguments put forward by the applicant but sees no reason to revise its opinion.		
2.1	It should be noted that the term "service" used in the claims is not very specific, and that in normal everyday language the provision of Internet access is referred to as a service. Despite the fact that this has been pointed out, the applicant has neither put		

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	<p>forward any arguments to refute this view (that is, the fact that the term "service" also covers the provision of Internet access) nor amended the claims to incorporate features which exclude this interpretation of the term "service". Consequently all the objections raised in the previous communication still stand.</p> <p>2.2 It is also noted that the applicant has not put forward any arguments to refute the Examining Authority's objection that the claims define business models.</p> <p>2.3 Consequently all the objections relating to lack of novelty (PCT Article 33(2)) and lack of inventive step (PCT Article 33(3)) still stand.</p> <p>3. The application fails to meet the requirements of PCT Article 33(1) because the subject matter of claims 1 and 7 is not novel (PCT Article 33(2)).</p> <p>3.1 Document D1 discloses the following (the references in parentheses are to D1):</p> <p>Method for billing a service in a packet data network (page 13, lines 15 to 20; page 15, line 30), wherein the service is linked to least two billing options (page 16, line 25 to page 17, line 3; the service in question is the provision of an access network with different data rates and associated billing options), and when the service is used data relating to the use of the service and a billing option selected by the user</p>

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	<p>are stored (page 11, lines 2 to 8; page 13, lines 5 to 20; page 16, line 25 to page 17, line 3).</p> <p>The subject matter of claim 1 therefore lacks novelty.</p> <p>3.2 The subject matter of claim 1 is also disclosed in documents D2 and D3 (see the passages cited in the search report), and therefore also lacks novelty over these documents.</p> <p>3.3 It is noted that the wording of the first alternative in claim 1 is such that the features defined are not necessarily of a technical nature, but also cover business models. Attention is drawn to PCT Rule 67.1(iii). For example, the definition given in claim 1 also allows for the non-technical possibility that a customer applying for a DSL connection for the provision of an Internet access service can choose between time-based billing, volume-based billing and flat-rate billing. The subject matter of claim 1 therefore also lacks novelty in this respect.</p> <p>3.4 Independent claim 7 defines a billing system for carrying out the method specified in claim 1. A system of this type is disclosed in D1 (see, for example, page 16, line 10 to page 17, line 3). The subject matter of claim 7 therefore also lacks novelty (PCT Article 33(2)).</p> <p>All the objections raised in points 2.2 and 2.3 above apply similarly to claim 7.</p>

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	<p>4. Dependent claims 2 to 6 and 8 to 10 do not contain any features that meet the PCT requirements in respect of novelty or inventive step when combined with the features of any of the back-referenced claims (see documents D1, D2 and D3, and the passages cited in the search report).</p> <p>Moreover, several of these claims are worded in such a way that they define business models (see PCT Rule 67.1(iii)).</p>